

Report Date: December 22, 2006

United States District Court

for the

Eastern District of Washington

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DEC 27 2006

JAMES R. LARSEN, CLERK

DEPUTY
RICHLAND, WASHINGTON

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Austen Charles McClary

Case Number: 2:03CR00227-001

Name of Sentencing Judicial Officer: The Honorable Edward F. Shea, U.S. District Judge

Date of Original Sentence: 06/10/2004

Type of Supervision: Probation

Original Offense: Attempted Bank Fraud, 18 U.S.C.
1344(2)

Date Supervision Commenced: 06/10/2004

Original Sentence: Probation - 36 Months

Date Supervision Expires: 06/09/2007

PETITIONING THE COURT

To modify the conditions of supervision as follows:

- 28 You shall reside in a residential reentry center at Geiger Corrections Center until your supervision expires on June 9, 2007. This placement may include a prerelease component, day reporting, and home confinement (with or without electronic monitoring, but not to include GPS) at the directions of the CCM and USPO. You shall abide by the rules and requirements of the facility. You shall remain at the facility until discharged by the Court.
- 29 You shall abstain from alcohol and shall submit to testing (including urinalysis and Breathalyzer), as directed by the supervising probation officer, but no more than six tests per month, in order to confirm continued abstinence from this substance.

CAUSE

On December 14, 2006, at approximately 8:27 p.m., this officer conducted a home visit, with U.S. Probation Officer (USPO) Sam Najera, at Austen McClary's apartment. Mr. McClary opened the door to his residence. USPO Najera and this officer observed four other individuals at the residence, none of whom were known to this officer, drinking 16-ounce, 8.1%, Hurricane High Gravity alcohol. A strong odor of marijuana was also detected. Upon closer inspection, these officers observed a marijuana pipe with marijuana in the bowl, a roach clip, and marijuana buds in a plastic bag. These items were confiscated as they were in plain view. The individuals were all identified and directed to leave the residence.

Mr. McClary admitted to these officers that he had smoked approximately 3/4 of a gram of marijuana, and drank two 16-ounce Hurricane High Gravity beers the evening of December 14, 2006. Mr. McClary was directed to report to the U.S. Probation Office at 8 a.m. on December 15, 2006, in order to sign an Admission of Drug Use form, and also to submit to urinalysis testing. Austen McClary complied with this directive.

Prob 12B

Re: McClary, Austen Charles

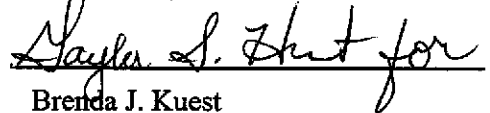
December 22, 2006

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On December 22, 2006, the offender signed the Waiver of Hearing to Modify Conditions of Supervised Release. Mr. McClary understands the rationale behind this modification. He was also advised that his drug testing would be increased to four times per month. Mr. McClary has an appointment at New Horizons Outpatient Counseling program in Spokane, Washington, on December 28, 2006, at 8:30 a.m.

Respectfully submitted,

by



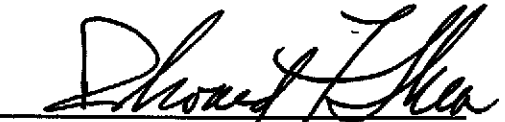
Brenda J. Kuest

U.S. Probation Officer

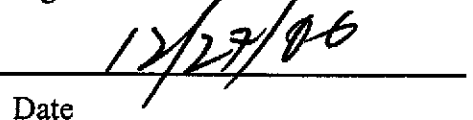
Date: December 22, 2006

THE COURT ORDERS

- ☐ No Action
- ☐ The Extension of Supervision as Noted Above
- ☒ The Modification of Conditions as Noted Above
- ☐ Other



Signature of Judicial Officer



Date

United States District Court

Eastern District of Washington

Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

To modify the conditions of supervision as follows:

- 28 You shall reside in a residential reentry center at Geiger Corrections Center until your supervision expires on June 9, 2007. This placement may include a prerelease component, day reporting, and home confinement (with or without electronic monitoring, but not to include GPS) at the directions of the CCM and USPO. You shall abide by the rules and requirements of the facility. You shall remain at the facility until discharged by the Court.
- 29 You shall abstain from alcohol and shall submit to testing (including urinalysis and Breathalyzer), as directed by the supervising probation officer, but no more than six tests per month, in order to confirm continued abstinence from this substance.

Witness:

Brenda J. Kuest
Brenda J. Kuest
U.S. Probation Officer

Signed:

Austen Charles McClary
Austen Charles McClary
Probationer or Supervised Releasee

12/22/06
Date